REMARKS

Claims 1-10 and 12-32 were pending in the application. No claims have been amended, added, or cancelled. Accordingly, claims 1-10 and 12-32 remain pending in the application.

35 U.S.C. § 102 rejections

In the present Office Action, claims 1, 2, 3, 4, 5, 13, 20, 28, and 29-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US Publication No. 20030066084 (hereinafter "Kaars"). Applicant has carefully reviewed the reference and notes there are recited features that are not disclosed therein. Accordingly, the Applicant traverses the above rejections and requests reconsideration in view of the following comments.

In the present Office Action, the Examiner maintains the rejection presented in the Final Office Action dated November 15, 2007, which suggested that Kaars teaches all of the features of claim 1. Applicant argued that Kaars does not teach a communication from the secondary device is detected by a transcode subsystem, wherein data is targeted to the secondary device. Rather, Kaars discloses receiving user input indicating a playback device. In an Advisory Action dated March 12, 2008, the Examiner responded by suggesting

> "Kaars teaches that the user interface could be displayed on a television screen (which the examiner interprets as being the same as television 120 from figure 1), which is manipulated by the user to select a transcoding scheme (paragraph 28) with a cursor (paragraph 22). The examiner is interpreting this selection by the user on a UI being displayed on a television as including a signal being transmitted from the television to the transcoding unit, as the user's selection would not be received by the transcoding unit if the UI was being sent using a one-way transmission path from the transcoding unit to the television."

Applicant respectfully submits the Examiner's interpretation of Kaars uses improper hindsight to establish an operating mode that is not disclosed in the reference. Kaars system displays a UI on a television from which a user may select a transcoding scheme. Kaars system also requires some user input to be provided to the transcoding device to initiate the transcoding.

The Examiner appears to be assuming that such an input would necessarily be delivered to the transcoding device through the television 120 and is equivalent to the recited "communication from the secondary device." However, Kaars does not teach that a user input is conveyed to the transcoding device through the television. Applicant submits this assumption is not supported by the reference and, in fact, would require a number of complex and impractical features to be added to the elements disclosed by Kaars.

It is first noted that for Kaars system to begin transcoding, the user inputs must be received by the user interface 116 which Kaars places within transcoding device 100. Conventional video systems are equipped with wireless inputs such as an infrared input directly from a remote control. Regardless of whether or not the UI is displayed on a television, nothing in Kaars discloses or requires the user input to be conveyed through the television in order for the user inputs to be conveyed to the user interface. Many common video devices, such as VCRs, DVD players, video receivers, and the like work this way, displaying a menu on a display device (e.g., television screen) and receiving menu selections directly from a remote control that bypasses the television.

Secondly, if one were to configure Kaars's system such that the television received user inputs and forwarded them to the user interface, each of the playback devices disclosed by Kaars would have to be similarly configured. For any of Kaars playback devices to be equivalent to the recited secondary device, it would have to receive the user input and convey it to the transcoding device. Consequently, each of the playback devices would have to be constructed with an awareness of the communication requirements between the user and the user interface implemented by the transcoding device. Similar capabilities would have to be incorporated in any future playback devices to make them compatible with the transcoding device. Conventional televisions, PCs and handheld playback devices would not be expected to be so configured; nothing in Kaars suggests that they are. The alternative in which user inputs are conveyed directly to the user interface provides ready compatibility between the transcoding unit and any number of playback devices that may display the user menu.

The above discussion presents a simple counterexample that contradicts the Examiner's

statement that "the user's selection would not be received by the transcoding unit if the UI was being sent using a one-way transmission path from the transcoding unit to the television." Accordingly, Applicant finds no teaching or suggestion in Kaars of "an interface configured to communicate with a secondary device external to the client; and a transcode subsystem coupled to the receiver and the interface, wherein the transcode subsystem is configured to: detect a communication from the secondary device," as is recited in claim 1. For at least these reasons, Applicant submits that claim 1 is patentably distinct from the cited art. As independent claims 13 and 20 recite features similar to those of claim 1, independent claims 13 and 20 are believed patentably distinct from the cited art for similar reasons.

Additionally, dependent claim 30 recites further distinguishable features including "wherein the transcode subsystem is further configured to automatically retrieve the transcode subunit from an external entity without receiving a user request for the transcode unit." In the present Office Action on page 5, it is suggested Kaars disclose these features at paragraphs 23 and 28. However, Kaars merely discloses that new transcoding algorithms may be downloaded via a data network. More specifically, Kaars discloses:

> "Next, in step 206, the system checks if the user has input, through user interface 116, an indication of a particular playback device. This can be done in the form of a numeric code. If the user has not, the system repeats step 206 until there is an input of the indication of a playback device. If the user has entered a playback device code, the process continues to step 207, where the input signal is analyzed in view of the input device to determine if the formats are compatible and thus whether transcoding is needed. If not, the processing continues at step 218 shown in FIG. 2B and described below. If transcoding is required, the process continues to step 208 wherein the processor 112 retrieves the transcoding information from memory 114. The transcoding information of various output devices is stored in memory 114. In the event a new output device is introduced into the market, the system can download via a data network, for example the Internet, new transcoding algorithms and format information." (Kaars, paragraph [0028]).

Kaars is silent as to whether or not a new transcoding algorithm may be downloaded without receiving a user request for the transcode unit. Nothing in Kaars suggests that a user request is not required to download a new transcoding algorithm. Since it could be required, it is not inherent that it not be required. Accordingly, Applicant finds no teaching or suggestion in

Kaars that "the transcode subsystem is further configured to automatically retrieve the transcode subunit from an external entity without receiving a user request for the transcode unit," as is recited in claim 30. For at least these additional reasons, Applicant submits claim 30 is patentably distinct from the cited art, as are claims 31 and 32 for similar reasons.

35 U.S.C. § 103 rejections

In addition to the above, claims 8, 17, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars in view of U.S. Publication No. 2003/0110513 (hereinafter "Plourde"). Applicant respectfully traverses these rejections for at least the above reasons in view of the fact that these rejections rely on a combination that includes the teachings of Kaars as discussed above.

In response to the Office Action dated November 15, 2007, Applicant argued that the combination of Kaars and Plourde does not teach a "transcode subsystem is configured to discard the received data in response to determining the first data format is not compatible with the secondary device, and determining no transcode subunit corresponding to both the first data format and the target data format is available," (emphasis added), as recited in claim 8. In the Advisory action dated March 12, 2008, it is suggested

> "Referring to Kaars (paragraphs 28 and 29, as cited in the rejection of claim 1), he teaches that there is a possibility of there being a new device that the transcoding unit does not have the codec for. The file could be discarded if there is not enough space to keep the file because there in another file to be transcoded, which if the file is likely to be discarded if the file is not of any use to the transcoder."

However, it is noted that (at least) two conditions must be met for the recited transcode subsystem to discard the received data. First, that the data format is not compatible and second, that no transcode subunit is available. It is suggested Plourde teaches, "a device wherein the downloading of the content is not allowed if the bit-rate is too high (and therefore the resulting file would be too large)" and that Kaars discloses there is a possibility of there being a new device that the transcoding unit does not have the codec for. First of all, Applicant does not

concede the point of whether or not a bit-rate that is too high is equivalent to a data format that is not compatible (the first condition). Secondly, Kaars does not teach or suggest discarding the received data in response to such a determination. Consequently, the combination of Kaars and Plourde yields a system that is capable of detecting the absence of a codec and detecting an excessive bit rate, but is only configured to block reception based on the bit rate. Nothing in the proposed combination suggests blocking reception in the absence of a codec. On the contrary, Kaars suggests if a new codec is required, one may be downloaded. Accordingly, Applicant reiterates that the cited art fails to teach or suggest that a "transcode subsystem is configured to discard the received data in response to determining the first data format is not compatible with the secondary device, and determining no transcode subunit corresponding to both the first data format and the target data format is available," as is recited in claim 8. For at least these reasons, Applicant submits that claim 8 is patentably distinct from the cited art, taken either singly or in combination. As claims 17, 24, and 26 recite features similar to those of claim 8, claims 17, 24, and 26 are believed patentably distinct from the cited art for similar reasons.

In addition to the above, claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars in view of Moroney, U.S. Patent No. 6,532,593. Claims 6, 7, 14, 15, 16, 21, 22, 23, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars in view of Krapf, U.S. Patent No. 6,449,767. Finally, dependent claims 9, 10, 18, 19, and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars in view of Chatani, U.S. Publication No. 2002/0104019. Applicant respectfully traverses these rejections for at least the reason that each relies on a combination including the teachings of Kaars as discussed above.

In view of the above, Applicant submits all pending claims are patentably distinguished from the combination of cited art.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5266-04300/RDR.

Respectfully submitted,

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